

STATUS: Effective

POLICY NUMBER: WASTE-0067-NPD

SUBJECT: RCRA Applicability to Baghouse Dust and Dust Collection Storage Tanks

AUTHORIZED: Carol S. Comer, Commissioner

SUPERSEDES: WASTE-0050-NPD

ISSUING OFFICE(S): Office of Land Quality

ORIGINALLY EFFECTIVE: June 21, 2002

RENEWED/REVISED: June 13, 2016

Disclaimer: This Nonrule Policy Document (NPD) is being established by the Indiana Department of Environmental Management (IDEM) consistent with its authority under [IC 13-14-1-11.5](#). It is intended solely to provide guidance and shall be used in conjunction with applicable rules or laws. It does not replace applicable rules and laws, and if it conflicts with these rules or laws, the rules or laws shall control. Pursuant to [IC 13-14-1-11.5](#), this policy will be available for public inspection for at least 45 days prior to presentation to the appropriate State Environmental Board, and may be put into effect by IDEM 30 days afterward. If the nonrule policy is presented to more than one board, it will be effective 30 days after presentation to the last. IDEM also will submit the policy to the Indiana Register for publication.

1.0 PURPOSE

This policy clarifies whether a containment unit, such as a baghouse silo, that collects dust and is connected directly to an air pollution control device is a hazardous waste tank subject to the requirements of RCRA, and when the dust collected in such a unit is considered hazardous waste.

2.0 SCOPE

This policy applies only to containment units that are connected directly to air pollution control devices and that are an integral part of air emission control systems.

3.0 SUMMARY

A containment unit, such as a baghouse silo, that collects dust and is connected directly to an air pollution control device is not a hazardous waste tank subject to the requirements of RCRA, and dust collected in such a unit is not hazardous waste until it is removed from the unit. However, storage of dust in such units, beyond what is required by the normal operation of the air emissions control system, could subject the containment unit to RCRA requirements.

4.0 DEFINITIONS

4.1. "Agency" - The Indiana Department of Environmental Management (IDEM).

4.2. "Hazardous waste" - Has the meaning set forth in [IC 13-11-2-99](#) and RCRA, 42 U.S.C. § 6903(5).

4.3. "Nonrule policy" - The term assigned by IDEM to those policies identified in [IC 13-14-1-11.5](#) as any policy that:

- A. Interprets, supplements, or implements a statute or rule;
- B. Has not been adopted in compliance with [IC 4-22-2](#);
- C. Is not intended by IDEM to have the effect of law; and
- D. Does not apply solely to the internal IDEM organization (is not an Administrative Policy.)

4.4. "OAQ" - IDEM's Office of Air Quality.

4.5. "OLQ" - IDEM's Office of Land Quality.

4.6. "Owner/operator" - For purposes of this policy, means the person or entity that owns or operates a containment unit that is connected to, and an integral part of, an air emissions control system, for the purpose of collecting dust.

4.7. "RCRA" - The Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., as amended by the 1984 Solid and Hazardous Waste Amendments to RCRA, 42 U.S.C. § 6901 et seq.

4.8. "Storage" - Has the meaning set forth in [IC 13-11-2-223\(a\)](#).

5.0 ROLES

Specific activities may vary according to circumstances.

5.1. IDEM OLQ

OLQ will determine when a containment unit for dust is an integral part of an emissions control system and apply this policy accordingly. OLQ will also determine whether such a unit is no longer just a part of the dust collection system but is instead being used for storage.

5.2. IDEM OAQ

OAQ will assist OLQ, as necessary, in determining when a dust containment unit is an integral part of an emissions control system.

5.3. Owner/operator

Will provide IDEM all information necessary to determine whether connected containment units are essential to air emissions control systems and whether the units are being used for storage.

6.0 POLICY

Some owners/operators of air emissions control systems have connected containment units to their systems, by piping or ductwork, for the purpose of collecting and containing waste dust. Some of these units are placed on legs so trucks can drive under them for loading purposes; these are often referred to as silos. Other dust collection containment units are on the ground and the waste is sucked out of the units with vacuum trucks.

In the past, IDEM has considered the dust in these types of containment units that receive waste dust from air emission control systems to be hazardous waste, and considered the units to be hazardous waste storage tanks, all subject to the requirements of RCRA, pursuant to 40 CFR 262.34(a)(1)(ii) and Subpart J of 40 CFR Part 265. This was more stringent than guidance issued by EPA:

"[W]here enclosed silos are integral to the baghouse dust handling system, we believe that it is reasonable that the applicability of RCRA be determined when the material is removed from the silo. Thus, the silo in this case serves as part of the dust handling system, and would not be subject to RCRA, with the understanding . . . that the purpose of the overall system is dust collection and conveyance, and that the silo contains the [electric arc furnace] dust, which is hard-piped from the baghouse, protecting it from environmental impacts such as precipitation, so that there are no releases from the silo to soils or groundwater."

(Letter from Elizabeth A. Cotsworth, Acting Director, Office of Solid Waste, U.S. Environmental Protection Agency, to William Guerry, Jr. dated June 1, 1998, RCRA Online Number 14200) (hereinafter "Cotsworth Letter").

IDEM has reconsidered its previous interpretation, and is hereby revising its policy to be consistent with EPA's interpretation, as set forth in the Cotsworth Letter. Dust collection containment units connected directly to air pollution control systems that serve as an integral part of the dust handling system, and which are completely protected from environmental impacts such as precipitation, so that there are no releases to soils or groundwater, are not hazardous waste tanks subject to RCRA. Likewise, the dust collected in such containment units is not considered hazardous waste until it exits the unit.

As the Cotsworth Letter also indicates, any storage of dust in such units, beyond what is required by the normal operation of the air emissions control system, would indicate that the containment unit is not functioning simply as part of the system, but as a waste storage unit as well, in which case it could be subject to RCRA requirements.

This policy supersedes and renders unnecessary former policy WASTE-0050-NPD, dated June 21, 2002.

7.0 REFERENCES

7.1. Federal Laws or Rules:

- A. 42 U.S.C. § 6903(5) (RCRA)
- B. 40 CFR 60.271(b) (definition of dust-handling system)
- C. 40 CFR 262.11 (hazardous waste determination)
- D. 40 CFR 262.34 (accumulation time)
- E. 40 CFR 265, Subpart J (tank systems)

7.2. Indiana Administrative Code:

- A. [329 IAC 3.1](#) (Hazardous Waste Management Permit Program and Related Hazardous Waste Management)
- B. [329 IAC 3.1-9](#) (Final Permit Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities)

7.3. Indiana Statutes:

- A. [IC 13-11-2-223](#)(a) (definition of storage)
- B. [IC 13-11-2-99](#) (definition of hazardous waste)


8.0 SIGNATURES


Carol S. Comer, Commissioner
Indiana Department of Environmental Management

4/21/2016
Date


Bruce Palin, Assistant Commissioner
Office of Land Quality

4/21/2016
Date


Donald M. Snemis, Deputy Chief of Staff and
Assistant Commissioner,
Office of Legal Counsel and Criminal Investigations

4-21-2016
Date

This policy is consistent with agency requirements.


Quality Assurance Program
Office of Program Support

4-21-2016
Date

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